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OF INDEPENDENCE TO COLONIAL COUNTRIES
AND PEOPLES

TOKELAU

Working paper prepared by the Secretariat

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TOKELAU 1/

I. GENERAL

1. General information on Tokelau is contained in the previous working paper prepared by the Secretariat (A/AC.109/2022).

II. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. Constitutional developments

2. Detailed information on the Tokelau Constitution as well as on constitutional developments is contained in the previous working papers on Tokelau (A/AC.109/1193, paras. 3-26 and A/AC.109/2022, paras. 5-7) and in the report of the Visiting Mission (A/AC.109/2009).

3. As reported earlier (A/AC.109/2022, paras. 5-6), the General Fono, the national representative body of Tokelau, established a broadly based Special Committee on Constitutional Developments (SCC) at the end of 1994, with a core membership of 30. In March and April 1995, workshops on constitutional developments were held on each atoll by the Tokelau government, with financial support from the United Nations Development Programme (UNDP). The workshops led to a clearer identification of Tokelau's needs in terms of self-determination. SCC is expected to make a first report to the General Fono in June 1996.

4. One of the most important aspects of the present phase of constitutional change in Tokelau is the emphasis on the role of the General Fono. While the General Fono takes all major decisions for Tokelau, including budgetary ones, experience, particularly since 1994, has highlighted the need for the early devolution of legislative power. The principle itself has been under discussion with Tokelau elders for a decade, but until the present phase began, the practical need for Tokelau to hold this power was limited. That practical need, however, was illustrated by a General Fono decision in June 1994 to generate more revenue through a change in taxation arrangements. That power, however, was not held locally, and so Tokelau had to address an appeal to the holder of the power, the Governor-General. This matter was resolved by the New Zealand Government's promulgation of the Tokelau Community Services Order of 1994, which came into force on 1 November 1994.

5. In 1995, planning was undertaken to confer legislative power on the General Fono by means of an amendment to the Tokelau Act of 1948. In May 1996, New Zealand's Parliament passed a Tokelau Amendment Bill. 2/ The Bill makes a number of changes to the Tokelau Act of 1948. It confers on the General Fono the power to make rules for Tokelau, including the power to impose taxes and to declare public holidays; provides that any such rules may be disallowed by the Administrator of Tokelau; amends the Tokelau Act of 1948 as it relates to the sources of law for Tokelau and the jurisdiction of Tokelau Commissioners; and makes other amendments to the Tokelau Act of 1948.

6. The Bill is of substantial significance for both New Zealand, as administering Power, and Tokelau as its Non-Self-Governing Territory. It acknowledges that in recent years Tokelau has been developing its own administrative and decision-making capabilities and moving steadily towards a greater degree of self-government. The main purpose of this Bill is to provide the General Fono of Tokelau, the Tokelauan national representative body, with a subordinate legislative power. This is consistent with New Zealand's obligation, by virtue of its membership in the United Nations, to help facilitate the development of self-government in Tokelau. The existing constitutional relationship with New Zealand is maintained and New Zealand retains the ability to legislate for Tokelau. The Bill equally acknowledges New Zealand's responsibility to Tokelau, the international community, and especially the United Nations, to support and encourage the process.

B. Political developments

7. Detailed information on political developments in the Territory is contained in a previous working paper on Tokelau (A/AC.109/1193) and in the report of the Visiting Mission (A/AC.109/2009). Tokelau has two elective offices, Faipule (joint Chairmen of the General Fono and pulenuku (village mayors). Between 4 and 11 January 1996 three annual elections were held in each atoll, in which three new Faipule were elected to the Council of Faipule for 1996-1998.

C. Public service

8. Information on Tokelau's public service is contained in the previous working paper prepared by the Secretariat (A/AC.109/2022, paras. 9-10).

9. According to information provided by the administering Power, after relocation to the atolls from Apia, the Tokelau Public Service underwent restructuring, with an emphasis on resource-management skills. At present, of the six departments, two are situated on each atoll, while the seventh, the Office of the Council of Faipule, moves each year, reflecting the rotation of the office of Ulu-o Tokelau, head of the Council of Faipule and the highest authority of Tokelau. The Tokelau Apia Liaison Office complements the overall departmental structure. As of 1 April 1995, there were 174 permanent staff. Basic facilities and services that earlier were the domain of the Tokelau Public Service were returned to the villages, helping Tokelauans to perceive the constitutional change process as evolutionary and reassuring, and not as something implanted from outside.

10. The National Strategic Plan serves as the basis on which Departments develop their own plans. The following are the major highlights of the departments' activities in the period under review, as reported by the administering Power: in education, the emphasis is on future human resource needs and the selection process for students going abroad; in health, activities included the extension of Nukunonu hospital to enable it to become a referral unit and the provision of new laboratory and X-ray facilities; in natural resources and environment, there was a promotional campaign to increase the

level of local food consumption; and in public works, there was a shift in the advising role to village councils. In 1995, the first woman was appointed to the Tokelau police force.

III. ECONOMIC CONDITIONS

11. Detailed information on economic conditions in the Territory is contained in the previous working papers on Tokelau (A/AC.109/1193 and A/AC.109/2022) and in the report of the Visiting Mission (A/AC.109/2009).

12. In 1994-1995, locally generated revenue contributed about 25 per cent of the budget, compared with 17 per cent the previous year. Tokelau contributed $NZ 1.46 million in 1994-1995, for the first time an amount of more than one million dollars. Measures were taken to widen the tax base. In June 1995, the General Fono introduced user charges in education and health.

13. Steps were also taken to promote small business development through a Tokelau-funded loan scheme, using funds in a Copra Stabilization Account that had its origins in the 1950s, but has long since been dormant. Such moves are deemed desirable by the administering Power in the context of careful encouragement of the private sector and reduction in the size of government in small, tightly knit communities where family or communal values are emphasized.

14. Tokelau represents a territory with 253 family groups (1991 census). Nearly 200 people receive income directly from the government, including village officials. In addition, 210 people earn much smaller incomes as members of the aumaga, or village workforce. The total earning capacity of the Tokelauan population is estimated at $2 million. According to the administering Power, it costs some $6 million to run Tokelau, particularly to provide for shipping, education (up to the form V level) and health. Isolation and the small population base make such services expensive in relative terms.

15. The New Zealand official development assistance allocation during the period under review was $5.2 million, divided between direct budget support in the amount of $4.3 million, and project assistance of $900,000. The latter increased by $200,000, reflecting the additional costs involved in the establishment of government. Project support continued to be allocated on the basis of requests appraised and endorsed by both parties, Tokelau and New Zealand. Management of the programme is the responsibility of the Development Cooperation Division of the Ministry of Foreign Affairs and Trade.

16. The United Nations Development Programme is providing assistance to Tokelau in its establishment of a modern satellite-based telecommunications system with funding from UNDP and the International Telecommunications Union (ITU), and with parallel funds being provided by both the New Zealand Government and Tokelau. In May 1995, the Telecommunications Project document was signed by the four parties, and the project manager began work soon thereafter.

17. Through assistance from projects in the current UNDP country programmes (1992-1996), Tokelau has become more self-sufficient in its water-supply needs; its disaster preparedness and disaster warning system; its seawall protection

network and its fuel storage capabilities on the atolls. As already reported above (see para. 3), UNDP has assisted Tokelau in developing its capacity in governmental support systems and constitutional development.

IV. SOCIAL AND EDUCATIONAL CONDITIONS

18. Detailed information on social and educational conditions in the Territory is contained in a previous working paper on Tokelau (A/AC.109/1193) and in the report of the Visiting Mission (A/AC.109/2009).

V. FUTURE STATUS OF THE TERRITORY

A. Position of the administering Power

19. The Government of New Zealand is committed to assisting Tokelau to attain a greater degree of self-government and economic self-sufficiency. This commitment was reiterated during the passage of the Tokelau Amendment Bill in May 1996 which underlies New Zealand's formal role in support of Tokelau as it establishes its own national government to take over from the New Zealand agencies. Members of Parliament from both sides of the House praised the Bill as a significant step for the people of Tokelau. It is the stated intention of the administering Power to be guided by the wishes of the Tokelauan people. The incoming Council of Faipule has been assured of the continuing interest and support of the New Zealand Government in Tokelau's development of self-government and of New Zealand's firm commitment to assisting Tokelau on an ongoing basis once an act of self-determination has been made.

B. Position of the people of Tokelau

20. The issue of self-determination is now under active consideration by the people of Tokelau, who have expressed a strong preference for a status of free association with New Zealand (see A/AC.109/2009, para. 106). In a reply dated 14 February 1996 to the message of the New Zealand Administrator of Tokelau, Ulu-o-Tokelau stated that "the political process that Tokelau is engaging in, and has done so over the last three years, reflects accurately the wishes and the aspirations of the people of Tokelau. It is a Tokelauan driven process. Tokelau is keen for the outside world to know of this." Tokelau has set no timetable for an act of self-determination, but it would continue to discuss with New Zealand the shape that a future relationship of free association might take.

VI. ACTION BY THE GENERAL ASSEMBLY

21. On 6 December 1995, the General Assembly adopted resolution 50/38 B, a consolidated resolution on 12 Non-Self-Governing Territories, section X of which was specifically devoted to Tokelau.

Notes

1/ The information contained in the present paper has been derived largely from information transmitted to the Secretary-General by the Government of New Zealand under Article 73 e of the Charter of the United Nations in August 1995 and information provided to the Secretariat by the Permanent Mission of New Zealand to the United Nations in May 1996. The present working paper is an update of the working paper on Tokelau prepared by the Secretariat in 1995 (A/AC.109/2022).

2/ South Pacific - Radio Australia news summary, 24 May 1996.